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Town of Deerfield

Public Comment Policy

Why we developed one and how it is working

O1

In my time with you today I hope to explain why and how we developed a Public Comment Policy

O2

What was the reason that pushed it into the forefront

O3

How it is working and how we implement it.

*How to run
an efficient
meeting
and give
people
their say*

The History

- Deerfield like many if not all of your towns have hot topics arise from time to time.
- Most meetings are not really attended but every once in a while, something comes up out of the blue
- In Deerfield's case it was a Dollar General that started the ball rolling.
- We had a long fight between developers of a building that was eventually going to be a Dollar General and a vocal opposition in town. There was a grass roots group that formed around the development of Deerfield called Deerfield for Responsible Development that took the fight head on and I am happy to say won against the box store development on this parcel of land.
- These meetings drew large crowds for and mostly against this development and while it was not in front of the Selectboard the ZBA and Planning board received the bulk of the interest in the meetings.
- This type of project can have silver linings as it creates interest on how boards are made up and it gets people interested in their local government

*How this the
selectboard
became
involved*

- The Zoning Board of Appeals is made up of members appointed by the Selectboard
- Heavy interest in who we appointed and how they performed during this process was a major focus as reappointment time came around.
- Deerfield is a small town of 5000 residents and sometimes employees if they live in town and are interested in their local government serve on town boards.
- One of our police officers serves on the ZBA and came up for reappointment.
- There was heavy interest in thier reappointment.
- We as a board and his employer were concerned about his rights as an employee and when public comment came up were trying to keep the comments on his performance as a ZBA member and not on his performance as a Police officer.

The ACLU Complaint

- During the meeting we allowed comment as broad as we could but when his performance as an officer came up the Chair of the Selectboard shut down the comment and did not take further comment.
- Having not notified the employee that his performance was going to be a topic as an employee, we were concerned we would get in hot water if allowed to continue
- We later learned the nuisances around what can be said and what can't which I will try to explain here
- A complaint was filed with the ACLU and we went into long negotiations around public comment. We worked with town counsel to understand the appropriate response we should have taken and worked to develop a clear policy moving forward.

What we learned

- Anyone can say just about anything they want in a public meeting.
- The line is crossed when a chair or the board members engage with this comment.
- Our error was shutting down the comment, thinking we were protecting the town against liability and a lawsuit from the employee.
- As long as you don't engage in the discussion any topic or comment can be made and directed an anyone they wish within the confounds of the law.

Our Policy and how we use it

- We developed a policy and adopted the final procedure on February 9th, 2022
- We created “Public Participation at Meetings of Public Bodies” and “Public Comment Procedures”
- I have attached these to this presentation so you can adopt them or adjust them into your towns if you wish.

Public Participation

- 1. The chair or his/her designee shall devote a period at each meeting to public comment (“public comment period”) to the extent that doing so does not interfere with the public body’s ability to perform its duties in an orderly, efficient, and timely manner. The point of the meeting during which the public comment period takes place; the duration of the public comment period, the number of individuals and/or entities who are permitted to speak; which individuals and/or entities are permitted to speak; and the time for which such individuals and/or entities are permitted to speak shall be in the sole discretion of the chair or his/her designee; provided, however, that the chair shall, to the best of his/her ability, ensure that each individual and/or entity who is permitted to speak is allotted an equal amount of time in which to do so.

Public Participation Cont.

- 2. While public comments are not required to pertain to an agenda item for that particular meeting, such comments must pertain to a matter within the public body's jurisdiction. Public comments on matters outside the public body's jurisdiction shall not be permitted. Because they are not Constitutionally protected, the following comments shall likewise not be permitted: true threats, incitement to imminent lawless conduct, statements that were found by a court of law to be defamatory, and sexually explicit statements made to appeal to prurient interests.
- 3. Individuals and/or entities who are permitted to speak during the public comment period shall begin their remarks by stating their name and address, including their town or city of residence.
- 4. Individuals and/or entities who are permitted to speak during the public comment period shall do so only through the Chair.

Public Participation Cont.

- 5. Entities who are permitted to speak during the public comment period must select a single spokesperson through which to do so. The spokesperson must identify themselves and the entity for which he/she is speaking, including his/her official position within said entity, as well as the entity's physical address
- 6. Individuals and/or entities who are permitted to speak during the public comment period shall not be permitted to assign their time to another entity or individual unless such assignment is required as a reasonable accommodation for such individuals and/or spokespersons because they have a disability.
- 7. If an individual and/or spokesperson(s) for an entity permitted to speak during the public comment period requires a reasonable accommodation to speak because of his/her disability, he/she must contact the Chair at least 48 hours prior to the meeting to arrange for such accommodation, which may include permitting said individual or spokesperson to speak for a longer time than the other individuals and/or entities permitted to speak during the public comment period.

Public Comment Procedures

- To provide Selectboard Meeting attendees the opportunity to share information with the Board and to ensure the ability to conduct business in an orderly manner, the following procedures will be used at all meetings. This procedure builds on the Public Comment Policy adopted on November 11, 2021.
- Public Comment will occur at the beginning of the meeting after the Selectboard convenes and follow the Public Participation Policy adopted by the Selectboard on November 11, 2021 as follows:
 - 1. Public Comment will be held for up to 20 minutes;
 - 2. Speakers will be allowed two (2) minutes to present their material. The presiding Chair (or designee) may permit extension of this time limit;
 - 3. A member of the Selectboard will time the public comment session;
 - 4. Topics for discussion will be limited to those items under the authority of the Selectboard;

Public Comment Cont.

- 5. Speakers shall identify themselves, including their name, address, town of residence, and if representing a group, the name of that group;
- 6. One person may represent a group, as noted in the Public Participation Policy, and if in that situation, that person must identify him/herself including their name, address, town of residence, and the name of the group represented;
- 7. All remarks will be addressed through the presiding Chair (or designee) of the meeting. This procedure and the Public Participation Policy may be reviewed on the Town website www.deerfieldma.us.

Conclusion

- Running public meetings especially in the age of Zoom can be very difficult.
- We want to ensure that our residents have every opportunity to speak their minds and be able to participate in their government.
- We also just as importantly need to be able to do the people business in an efficient and timely manner,
- We have found that putting public comment at the beginning of every meeting allows the public to speak on any topic that may be on the agenda before we as a board get to that topic and deliberate. It is not fair to put comments at the end after you have already decided a topic and it creates too much disruption to take comments on every item during the boards time to deliberate and vote on a topic. There may be some topics the chair allows discussion on but that is up to the chair, and it is the exception not the rule.
- The board should not comment on any public comment other than to say thank you for the comment. If you wish to discuss the topic further, you can add it to the following agenda for the next meeting.

Final Thoughts

- We have found a successful meeting is one where you show respect and kindness to your fellow members and the public. Even if it is a difficult subject and you are getting a lot of rotten tomatoes thrown your way, if you are kind and show that you are listening and honestly care what the person has to say, that is what matters. People want to be heard and they want their government to be responsive. You don't have to agree or change your decision on a subject, but you need to show respect and listen.
- This will model good governance to the public, and it will show the public how to behave and conduct themselves in a public body.
- Thank you so much for your time today.